

1 John S. Miller, Jr. (State Bar No. 77446)
2 jmiller@coxcastle.com
3 Dwayne P. McKenzie (State Bar No. 175162)
4 dmckenzie@coxcastle.com
5 Monica R. Briseño (State Bar No. 286692)
6 mbriseno@coxcastle.com
COX, CASTLE & NICHOLSON LLP
2029 Century Park East, 21st Floor
Los Angeles, CA 90067-3284
Telephone: (310) 284-2200
Facsimile: (310) 284-2100

7 Attorneys for Defendants Kevin J. Albanese,
F.G. Crosthwaite, Thomas Holsman,
8 John M. Humber, and Richard Piombo

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

12 DAVID SLACK, individually, and on behalf of
13 all others similarly situated; JOHN JARBOE,
14 individually, and on behalf of all others similarly
15 situated; KEN BETTIS, individually, and on
16 behalf of all others similarly situated; KENNY
MENDOZA, individually, and on behalf of all
others similarly situated, CLYDE ELI,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

VS.

19 INTERNATIONAL UNION OF OPERATING
20 ENGINEERS, a trade union, et al.,

21 Defendants.

Case No. 3:13-CV-05001-EMC

**STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME FOR
DEFENDANTS TO BRING MOTION FOR
ATTORNEY'S FEES AND BILL OF
COSTS**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 This Stipulation is submitted pursuant to Local Rule 6-2 and is entered into by and between all
 3 Plaintiffs and Defendants represented by the undersigned counsel (collectively, the “Parties”) for the
 4 purpose of extending the time for Defendants to bring a motion for attorney’s fees and a bill of costs.

- 5 1. The Court issued an Order on July 20, 2016 (Docket No. 331) **GRANTING**
 6 Defendants’ motion for summary judgment and **DENYING** Plaintiffs’ motion for
 7 summary adjudication as moot.
- 8 2. The Parties filed with the Court a proposed Judgment pursuant to the July 20, 2016
 9 Order on July 29, 2016. (Docket No. 334-1.)
- 10 3. The Court entered a final judgment for purposes of Federal Rule of Civil Procedure
 11 58(c) on August 1, 2016. (Docket No. 336.)
- 12 4. Plaintiffs have indicated that they intend to appeal the final judgment.
- 13 5. Pursuant to Local Rules 54-1 and 54-5, a bill of costs and a motion for award of
 14 attorney’s fees must be served and filed within 14 days of entry of judgment by the
 15 District Court. Pursuant to Local Rule 54-5, parties must meet and confer for the
 16 purposes of resolving all disputed issues relating to attorney’s fees before making a
 17 motion for award of attorney’s fees.
- 18 6. To accommodate the Parties’ efforts to meet and confer regarding Defendants’
 19 anticipated motion for attorney’s fees, the Parties stipulated to extend the time for
 20 Defendants to bring an attorney’s fee motion by an additional 7 days. (Docket No.
 21 333.) Pursuant to the stipulation, the Court entered an Order that Defendants’ motion
 22 for attorney’s fees must be filed and served within 21 days following the entry of final
 23 judgment in the action. (Docket No. 335.)
- 24 7. With the final judgment in the action having been entered on August 1, 2016 and
 25 pursuant to the Court’s Order and Local Rules 54-1 and 54-5, Defendants have until
 26 August 15, 2016 to file a bill of costs and until August 22, 2016 to file a motion for
 27 attorney’s fees.

1 8. Parties met and conferred regarding Defendants' attorney's fees motion and bill of
2 costs on August 2, 2016. During discussions, Defendants indicated that they intend to
3 continue to seek the deposition of Ms. Debbie S. Morgan, which they believe is
4 relevant to their attorney's fees motion. Plaintiffs disagree that Defendants may obtain
5 the deposition of Ms. Morgan or that it is relevant to Defendants' motion.

6 Accordingly, to resolve the issue, the Parties discussed that Defendants would bring an
7 administrative motion on the subject of Ms. Morgan's deposition before this Court.

8 9. To accommodate the bringing of an administrative motion in connection with Ms.
9 Morgan's deposition, the time necessary for the court to consider such request, and the
10 potential taking of Ms. Morgan's deposition, the parties have agreed to extend the time
11 to file and serve an attorney's fees motion and bill of costs to 30 days following an
12 order denying Defendants' motion to take the deposition of Ms. Morgan, or, should
13 such motion be granted, 30 days following the date on which Ms. Morgan's deposition
14 is concluded.

15 10. This extension of time does not, and is not intended to, affect Plaintiffs' ability to bring
16 a timely appeal.

17 11. This Stipulation is not offered for any dilatory or improper purpose, but rather solely to
18 effectively manage the scheduling of case events and to ensure the most efficient use of
19 resources by the Court, the Parties, and their counsel as well as consider Parties'
20 scheduling commitments.

21 12. This Stipulation for the extension of time to bring a motion for award of attorney's fees
22 and a bill of costs is without prejudice to subsequent stipulations by the Parties or
23 requests by Defendants to further extend the time for Defendants' motion for attorney's
24 fees and bill of costs.

25 //

26 //

27 //

28 //

STIPULATION

Pursuant to Local Rules 6-2, 54-1, and 54-5, subject to the Court's approval, Plaintiffs and the Stipulating Defendants, hereby stipulate that:

1. Defendants' time to file and serve a bill of costs and a motion for award of attorney's fees is extended from Monday August 15, 2016, and Monday, August, 22, 2016, respectively, to 30 days following an order denying Defendants' motion to take the deposition of Ms. Morgan, or, should such motion be granted, 30 days following the date on which Ms. Morgan's deposition is concluded.

Respectfully submitted,

Dated: August 4, 2016

COX CASTLE & NICHOLSON

By: /s/ Monica Briseño

Dwayne McKenzie
Monica Briseno
Attorneys for Defendants F.G. Crosthwaite, Rich
Piombo, Thomas Holsman, John Humber and Kevin
Albanese

Dated: August 4, 2016

LAW OFFICE OF KENNETH C. ABSALOM

By: /s/ Kenneth C. Absalom

Kenneth C. Absalom
George R. Nemiroff
Attorneys for Defendants Russell E. Burns, Dan Reding,
and Carl Goff

Dated: August 4, 2016

BERNS WEISS LLP

By: /s/ H. Scott Leviant

H. Scott Leviant
Jeffrey K. Berns
Lee A. Weiss
Albert G. Lum

LAW OFFICES OF J. MARK MOORE

Attorneys for Plaintiffs

1 **ECF CERTIFICATION**
2

3 Pursuant to Local Rule 5-1(i)(3), the filing attorney attests that she has obtained concurrence
4 regarding the filing of this document from the signatories to the document.

5 DATED: August 4, 2016

6 COX, CASTLE & NICHOLSON LLP

7 By: /s/ Monica Briseño

8 Dwayne McKenzie

9 Monica Briseno

10 Attorneys for Defendants F.G. Crosthwaite, Rich
11 Piombo, Thomas Holsman, John Humber and Kevin
12 Albanese

ORDER

Pursuant to the foregoing Stipulation of counsel and for good cause shown, IT IS HEREBY ORDERED that:

1. Defendants' time to file and serve both a bill of costs and a motion for award of attorney's fees is extended from Monday August 15, 2016, and Monday, August, 22, 2016, respectively, to 30 days following an order denying Defendants' motion to take the deposition of Ms. Morgan, or, should such motion be granted, 30 days following the date on which Ms. Morgan's deposition is concluded.

IT IS SO ORDERED.

Dated: 8 / 8, 2016

